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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,903	09/30/2003	Jeyhan Karaoguz	14449US02	6132
23446	7590	02/15/2011	EXAMINER	
MCANDREWS HELD & MALLOY, LTD			PHAN, TRI H	
500 WEST MADISON STREET			ART UNIT	PAPER NUMBER
SUITE 3400			2471	
CHICAGO, IL 60661				

  

MAIL DATE	DELIVERY MODE
02/15/2011	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/675,903	KARAOGUZ ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	TRI H. PHAN	2471	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 31 January 2011.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-31 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 1-10 and 21-31 is/are allowed.

6) Claim(s) 11-20 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____ .

**DETAILED ACTION****Continued Examination Under 37 CFR 1.114**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01/31/11 has been entered. Claims 1-31 are now pending in the application.

**Claim Rejections - 35 USC § 101**

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 11-20 are rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter.

Regarding independent claim 11, the claim recites “A computer-readable medium”, which cover forms of non-transitory tangible media and transitory propagating signals in the ordinary and customary meaning. Thus, in view of the broadest reasonable interpretation, particularly when the specification is silent, the claim may cover a signal per se; and therefore does not qualify as a statutory subject matter.

For the same reason discussed supra with respect to independent claim 11, dependent claims 12-20 fall outside the scope of § 101.

The Applicants are suggested to replace “computer-readable medium” with “non-transitory computer-readable medium” to overcome the 101 issue above.

### **Allowable Subject Matter**

3. Claims 11-20 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 101, set forth in this Office action.

4. Claims 1-10 and 21-31 are allowed. The following is a statement of reasons for the indication of allowable subject matter:

The Applicants' comments/arguments in the response filed 01/03/11 have been fully appreciated and considered. The prior art of record, considered individually or in combination, appears to fail to fairly show or suggest the claimed system (claim 21) and method (claim 1) for controlling transfer of media content in a communication network, comprising, among other limitations, a novel and unobvious limitation of “receiving an input specifying at least one media file for transfer via a communication channel in the communication network; subsequent to said receiving, causing a display of a plurality of quality of service options corresponding to said at least one media file for selection by a remote user; and receiving a quality of service selection specifying at least one of said plurality of quality of service options; and subsequent to said receiving of said quality of service selection, transferring said at least one media file via said communication

channel utilizing said quality of service selection.” structurally and functionally interconnected with other limitations in a manner as recited in claims 2-10 and 22-31.

### Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**Smith et al.** (U.S. 6,128,649), **Bonomi et al.** (U.S. 6,769,127) and **Navar, Murgesh S.** (U.S. 7,080,400) are all cited to show devices and methods for improving media services' transmission in telecommunication architectures, which are considered pertinent to the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri H. Phan, whose telephone number is (571) 272-3074. The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi H. Pham can be reached on (571) 272-3179.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO

Customer Service Representative or access to the automated information system, call

800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tri H. Phan/  
Primary Examiner, Art Unit 2471

February 14, 2011